



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III
COMMISSIONER

HENRY JENNINGS
ACTING DIRECTOR

MEMORANDUM

DATE: October 2, 2006
TO: Board of Pesticides Control
FROM: Henry Jennings
SUBJECT: Additional Housekeeping Amendments

At recent meetings, the Board has reviewed and approved several rulemaking proposals as follows:

- 1) Changing the classification of Dylox from limited use to restricted use. This involves two separate chapters of rules: 40 and 41.
- 2) Combine a few subcategories for commercial applicators in Chapter 31.
- 3) Add a new section to Chapter 20 to explicitly prohibit application of pesticides to the property of another without proper consent and to require written contracts for ongoing treatments.
- 4) Add a provision to Chapter 28 to allow for a waiver of the fee required for the pesticide notification registry.

In addition to those changes, there are a few other minor changes that should be considered with the idea that of combining these changes with other rulemaking efforts:

- 1) At the September 15 meeting, the Board directed the staff to develop language to allow persons requesting notice under Section 1 of Chapter 28 (the informal request) to also request an MSDS. This was another task identified through the planning session.

Proposed amendment: Add new subsection to Chapter 28, which would be section 1 B (1)(e), "if requested, the person responsible for managing the land shall make reasonable efforts to supply a copy of the MSDS(s) and/or the pesticide label(s). However such requests for additional information will not delay nor prohibit the intended pesticide application."

- 2) During the fall of 2005, two horses and one bird tested positive for Eastern Equine Encephalitis, which prompted a couple of southern Maine schools to immediately treat for mosquitoes adjacent to athletic fields. Because Chapter 27 of the Board's rules (School IPM) requires a five day advance notice for pesticide applications when school is in session, responding quickly to a public health concern may contradict the rule. Accordingly, the Board adopted an interim policy on January 20, 2006 that would exempt powered applications for mosquito control when the Maine CDC has identified arbovirus (arthropod borne virus) positive animals (including mosquitoes and ticks) in the area. Since it's likely that arboviruses will continue to be a concern, it would be prudent to amend Chapter 27 to account for this need.

Proposed Amendment: Add new subsection 3 C which would read, “When the Maine Center for Disease Control has identified arbovirus positive animals (including mosquitoes and ticks) in the area, powered applications for mosquito control are exempt from Section 4 and 5 (B). Applicators should post the treated area as soon as practical, in a manner consistent with section 4 C (3) (a).”

- 3) Chapter 21 of the Board’s rules regulates the return and disposal of restricted use pesticide containers. The chapter contains an erroneous phone number for the Board’s main office that has caused some confusion recently. It would seem prudent to correct this minor error at the same time that other housekeeping changes are being made.

Proposed Amendment: Change the phone number in sections A 3 (a) and B 3 (a) from 289-2731 to 287-2731.

- 4) The definition of *commercial applicator* in Chapter 10 includes exemptions for use of paints, stains and wood preservatives. However, it has been a long-standing Board policy that individuals who treat standing utility poles for wood destroying insects and fungi should have the training that comes with commercial licensing. A number of the products that commonly used are classified as restricted use pesticides, which would require a license anyway. However, questions have been raised about the whether persons who only apply general use pesticides are exempt from licensing.

Proposed Amendment: Modify Chapter 10, Section 2 I (4) (c) as follows: “Persons applying general use paints, stains and wood preservatives, except for the treatment of standing utility poles.”